

From: [Kelly, Jack \(R3 Phila.\)](#)
To: [Johnson, Larry-C](#)
Subject: FOIA request from Ira Oring on EPA communicaton with Baltimore County regarding Powhatan Mining Site
Date: Wednesday, October 25, 2017 11:33:41 AM
Attachments: [image001.png](#)
[PowhatanFigureforZoningOffice.pdf](#)
[FinalsecondEPAtrtoCounty082410.doc](#)
[Final.FredltrtoCounty082410.doc](#)
[CountyZoningVarianceJutificationfor1103.doc](#)
[WestonPlat_working.pdf](#)
[SecondLetterto_BaltCountyPlanning.doc](#)
[Letterto_BaltCountyPlanning.doc](#)
[CountyZoningVarianceJutificationfor1103.doc](#)
[ZoningDecisionpg1to5.pdf](#)
[ZoningDecisionpg6.pdf](#)

Larry,

This is regarding FOIA Tracking Number EPA-R3-2017-010923 from Ira Oring of 36 South Charles Street (see: <http://www.fedgar.com/attorneys/ira-l-oring>)
Below and attached is everything I could find using reasonable effort. I had to go into Lotus Notes.

I forget that I recently addressed a question from ORC about my dealings with the County. See emails in yellow highlight below starting at the bottom.

NOTE: I WOULD NOT SEND THE REQUESTOR ANYTHING THAT I PUT IN YELLOW HIGHLIGHTS AS IT IS IRRELEVANT TO HIS REQUEST.

One question. Can you send to me the requestor's letter? I need to follow up something with MDE. MDE was going to put an environmental covenant on the Powhatan property. I sent them a map years ago showing where asbestos remained below ground. When I go into their Environmental Covenant website I don't see the Powhatan site or the adjacent Valerie Manor property listed. The letter from Mr Oring may help me to get some traction if needed.

Jack Kelly
On Scene Coordinator
EPA Region III, Philadelphia
215-514-6792 (cell)
215-814-3112 (office)

From: Kelly, Jack (R3 Phila.)
Sent: Monday, August 28, 2017 11:48 AM
To: Cron, Mitch <Cron.Mitch@epa.gov>; Eiseman, Robin <Eiseman.Robin@epa.gov>
Cc: Wallace, Robert <wallace.robert@epa.gov>; Matzko, Kristine <Matzko.Kristine@epa.gov>
Subject: RE: Question from our Powhatton days

All,

Here is way too much stuff. Shows what we went through. I cannot find an email as to why it

was determined this wasn't exempt under our Removal Authority....
...or maybe we just decided to play nice.

From: Jack Kelly/R3/USEPA/US
To: Gerald Heston/R3/USEPA/US@EPA, Robin Eiseman/R3/USEPA/US@EPA
Cc: Greg Ham/R3/USEPA/US@EPA
Date: 12/01/2010 03:38 PM
Subject: Deputy Zoning Commissioner's Decision

Attached is the Baltimore County Deputy Zoning Commissioner's decision.
I messed up somehow getting it all on one document.

The variance was granted. There is a 30 day appeal period.

[attachment "ZoningDecisionpg6.pdf" deleted by Robin Eiseman/R3/USEPA/US] [attachment
"ZoningDecisionpg1to5.pdf" deleted by Robin Eiseman/R3/USEPA/US]

From: Jack Kelly/R3/USEPA/US
To: "Eugene (Jerry) Siewierski" <esiewierski@baltimorecountymd.gov>,
Cc: "David Lykens" <dlykens@baltimorecountymd.gov>, "Thomas Vidmar"
<tvidmar@baltimorecountymd.gov>, Art O'Connell <aoconnell@mde.state.md.us>,
jcarroll@mde.state.md.us
Date: 04/19/2012 04:34 PM
Subject: Re: Fwd: Re: Powhatan Mining Company

Jerry,

The cleanup of the Powhatan Site is nearing completion. We are currently working in the next to last residential yard and then will have some limited remaining work on the former Powhatan Mining Site property. I hope to be finished by June some time.

We did not clean up the Portrait Homes/Valerie Manor Subdivision. I did conduct a relatively detailed sampling investigation of the property which I had our contractor WestonSolutions Inc forward to the Baltimore County DEP (formerly DEPRM I recall) almost a year ago. See the email chain below. I can send you another copy of the report if needed.

I concluded that the former subdivision property did not pose a risk to residents as surface contamination was minimal if existent at all and the mounds of soil and surface soil had a good vegetative cover. If left undisturbed, the property does not pose a health threat. Asbestos contamination was discovered in the subsurface, especially below lots 1, 2 and 3, apparently due to burial activities by the former company. Historic aerial photos show scarring of the ground in this area in the 1950s and 60s. I explained to the property owner that an EPA cleanup, if it were determined necessary, would likely result in a follow-up effort by our cost recovery program to seek reimbursement for costs associated with the cleanup. I also met with two representatives from Hopkins Federal Savings Bank on two different occasions many months ago and explained to each my activities regarding both the Powhatan Mining property and Valerie Manor property.

Please give me a call at 215-514-6792 to discuss your needs. Dick Matz of CMR Engineers called me several days ago about wanting to receive a letter from EPA for the bank so I suspect your follow up email is related to that. I can also provide detailed information on our assessment of the Valerie Manor property.

Sincerely,

Jack Kelly
On Scene Coordinator
EPA Region 3

Jack,

I have emailed a copy to the 2 folks listed below. I have also mailed a copy to Scott with Portrait Homes and Julie with Hopkins Federal.

Thanks,

-Chris

From: Kelly.Jack@epamail.epa.gov [<mailto:Kelly.Jack@epamail.epa.gov>]
Sent: Monday, May 02, 2011 5:16 PM
To: Baer, Christopher
Subject: Re: FW: Portrait Homes Geoprobe/Sampling Report

Chris,

Below is contact info for the two Baltimore County offices I think are most relevant for receiving the report.....

Also, below is a new introductory email. I don't know these folks so I had to revise your previous one a bit.

.

Hello,

Please find attached a copy of a sampling assessment report for the planned Portrait Homes, Inc. Subdivision (aka Valerie Manor) located along Emmanuel Court in the Woodlawn section of Baltimore County. The report was completed by Weston Solutions Inc (Weston) for the U.S. Environmental Protection Agency Region III as part of its investigation of the adjacent Powhatan Mining Company site, a former asbestos processing facility. Mr. Jack Kelly, On Scene Coordinator for the Powhatan Site, asked that Weston forward a copy of the report to you so that your office is aware of the property conditions should a developer seek approval for building on the property.

Please contact Jack Kelly, Kelly.Jack@epa.gov or 215-514-6792 with any questions.

(If you cannot receive an electronic copy of the report due to its size, we will forward a hard copy to you if you provide us with your mailing address).

Sincerely,
Christopher Baer etc....

(1) Vincent J. Gardina, Director

Baltimore County Department of Environmental Protection and Sustainability

Jefferson Building
105 West Chesapeake Avenue

Suite 400
Towson, MD 21204
eps@baltimorecountymd.gov (no direct email address provided)
Tel: 410-887-3733

(2) Lynn Lanham, Division Chief
[Development Review Division](#)
[Baltimore County Office of Planning](#)
Jefferson Building
105 W. Chesapeake Ave.
Suite 101
Towson, MD 21204

Tel: 410-887-3211
Fax: 410-887-5862

mlanham@baltimorecountymd.gov

Jack Kelly, Removal Response Program
EPA Region III, Philadelphia, PA
215-814-3112 office
215-514-6792 cell

From: "Eugene (Jerry) Siewierski" <esiewierski@baltimorecountymd.gov>
To: Jack Kelly/R3/USEPA/US@EPA
Cc: "David Lykens" <dlykens@baltimorecountymd.gov>, "Thomas Vidmar" <tvidmar@baltimorecountymd.gov>
Date: 04/19/2012 11:48 AM
Subject: Fwd: Re: Powhatan Mining Company

Mr. Kelly: I am checking to see if the asbestos clean up of the Powhatan Mining Company site, located on Windsor Mill Rd in Baltimore County, has been completed, and to find out if the clean up included adjacent properties. We are involved with a residential subdivision located adjacent to the mining company site. Please let me know if you need additional information....Thanks for your consideration of this request....Jerry Siewierski, Baltimore County Dept of Environmental Protection.

>>> "Tim Ohare" <tohare@mde.state.md.us> 4/19/2012 9:53 AM >>>
Jerry,
try Kelly.Jack@epamail.epa.gov
Tim

>>> "Eugene (Jerry) Siewierski" <esiewierski@baltimorecountymd.gov> 4/19/2012 9:34 AM
>>>
Mr. O'Hare: We are asking for information concerning the clean up of the former Powhatan Asbestos Mining Company, located on Windsor Mill Rd. It is my understanding that the

clean up of the site has been completed, under monitoring by US EPA, and the clean up included adjacent sites, such as the proposed Valerie Manor Subdivision. Could you please let me know if this is accurate, or if you have a contact person with US EPA I should direct my questions to....thanks...Jerry Siewierski.

----- Original Message -----

From: Jack Kelly
Sent: 10/20/2010 08:32 PM EDT
To: dagreen@baltimorecountymd.gov
Subject: Powhaton site

Dave,

Sorry we didn't connect....and I forgot to ask for Jeff Mayou (spell?). I will call one of you tomorrow as we usually start our meetings at about 830 and then have a break at 1030 or so.

In brief, the variance is requested because EPA policy or guidance generally is to provide equivalent compensation or replacement for any personal item or structure we destroy or damage beyond reuse as part of our cleanup operations. This assumes the party affected isn't determined to by EPA to have liability at the time of the cleanup. Monetary compensation in this instance would be problematic given the property owner's sole known income through SSI.

We decided that destruction of the entire former factory, following interior cleanup, is the best approach to address the site (interior cleanup will not be completely effective in removing asbestos fibers).

A portion of the former plant is used by the property owner to store materials and work on his personal cars. We propose to rebuild this portion in a nearby portion of his property, same size and height, per our policy. .

In addition to EPA guidance on replacing damaged personal items and structures, following are a few additional points I believe provide rationale for the variance request:

- the Maryland Dept of the Environment formally requested EPA to conduct a "removal action" at the property under EPA's Superfund authority (removal action essentially means cleanup),
- we are removing a contaminated eyesore from the area,
- informal discussions I have had with nearby neighbors, although with a limited number, indicate no adverse reaction to construction of a new building that will be smaller than the existing former plant and placed at a location further removed from site lines for most,
- constructing the building in a location several tens of feet from the existing structure will allow us time to move personal items into it before demolition of the former plant. Construction of a new building in the footprint of the existing structure may be feasible but its an unknown at this point (the contamination level and condition of the cement foundation will be assessed post-demo), it prolongs our project significantly, and it will result in the temporary placement of numerous items throughout the property and possibly on Emmanuel Court.
- to the best of my knowledge, the property owner has used the portion of the structure to be replaced for personal affairs only since his father was instructed to cease commercial operations in about 1990.

I may present an additional justification or two at the hearing but above are the ones that come to mind this evening.

You may want to speak with Jeff Perlow as Jeff graciously helped me prepare the plat and I discussed the situation with Jeff and his supervisor several weeks ago.

For info on the Site's history and the rationale for EPA's involvement, go to www.epaosc.net/powhatan.

Click on the Documents pick and look for the document with the phrase "Action Memorandum".

I will be back at the site on Monday next week. I can meet with you at your convenience on Monday afternoon or anytime on Tuesday or Wednesday.

Thank you.
Jack Kelly

Jack Kelly, On Scene Coordinator
EPA Region III, Philadelphia, PA
215-814-3112 office
215-514-6792 cell

Hi Lloyd,

I just have one question if you or someone can assist.
I am trying to determine when Parcel 269, Map 88, Grid 13 officially was rezoned to DR 5.5.
This is the 1 acre parcel that contains the former Powhatan Mining facility building and the current owner's home.

Thanks,
Jack
From: "Lloyd Moxley" [lmoxley@baltimorecountymd.gov]
Sent: 09/16/2009 02:37 PM AST
To: Jack Kelly
Subject: Re: former Powhatan Mining Company facility in Gwynn Oak

Hey Jack,
If the issue was related to a zoning violation there may be a record of it with the Bureau of Code Enforcement they are at (410) 887-3352. If it was an environmental health issue possibly this DEPRM Community Hygiene # may help, (410) 887-4066. Hope that works for you.
Lloyd

Lloyd T. Moxley
Planner, Development Review
Baltimore County Office of Planning
105 W. Chesapeake Avenue, Suite 101
Towson, MD 21204
Phone (410) 887-3480

Lloyd,
Sorry. Another question.

I need to determine something. The fellow who owns the former Powhatan Mining Corporation property (Parcel 269) apparently was informed years ago (early 1990s?) by the County not to perform commercial operations in the three-bay area of the former facility . I believe him and I believe he has not done so. Its in his favor if such a notice was received from the County. He may not be able to find documentation. Does this sound like something the Baltimore County Planning Office would have been involved with?or Baltimore County DEPRM?
Any suggestions on who to contact?
Thanks again.

Jack

Lloyd,
Thanks again.
I just found out I need to be at the Powhatan property from about 10 to noon tomorrow.
Maybe I will stop by both the Zoning Office and Development Management Office on the way back to Philly tomorrow.

Have a nice weekend.

Jack Kelly, On Scene Coordinator
EPA Region III, Philadelphia, PA
215-814-3112 office
215-514-6792 cell

From: "Lloyd Moxley" <lmoxley@baltimorecountymd.gov>
To: Jack Kelly/R3/USEPA/US@EPA
Date: 09/03/2009 02:16 PM
Subject: Re: talk to the person "at the desk" regarding zoning issues

Jack,
Your best bet for reviewing Development histories is with the Office of Development Management. They can be reached at (410) 887-3335. They are the keepers of the development files although many of those are kept in archives. They can assist you in determining the correct PDM file no. but its best to visit their office which is at the other end of the hall from the Zoning Office at 111 West Chesapeake Ave Towson.
Lloyd

Lloyd T. Moxley
Planner, Development Review
Baltimore County Office of Planning
105 W. Chesapeake Avenue, Suite 101
Towson, MD 21204
Phone (410) 887-3480
Fax (410) 887-5862

Lloyd,

One more thing. I have been speaking with Scott Adashek, the developer of the planned *Portrait Homes at Valerie Manor* development.

As you may know, development there is now halted indefinitely. Scott expressed interest in having EPA investigate/sample that property for either naturally occurring asbestos ore or waste disposal from the former Powhatan facility. He was kind enough to provide me with the names of the various contractors formerly involved with the project but I am wondering if I can review any records or files on the development at your office. It will help me focus on what, if anything, needs to be done.

If there is a formal process for requesting a file review, that is fine.

Again, thanks for your help.

(PS If you know the name of a staff person with Baltimore County DEPRM knowledgeable of the development, I will give him/her a call.)

Jack

9/2009 to Llyoyd Moxley of Baltimore County

Hello Lloyd,

You may recall that I was the person from the EPA Superfund Program who spoke with you a couple of weeks ago regarding the former Powhatan Mining facility in Woodlawn, MD. I am the project manager for the investigation of the site.

I will be spending time in the Baltimore area in the coming months and was hoping to stop by to follow-up with some of the questions I had regarding the potential for the site owner to re-build the garage portion of the former facility if it were to be demolished (the garage portion used by the property owner is the cinder block portion in the photos attached). Please note that this is merely a "what if" scenario as my work is just beginning and I have no idea if such an activity is even remotely possible or necessary. However, I do want to better understand what is or is not permitted by zoning and what is required for seeking a variance.

I recall your stating that there usually is a person stationed at the office to answer questions.

Unfortunately, I misplaced the information you gave me

and was hoping you could again give me the location and hours when that person is available.

Thanks again for your help.

[attachment "IMG_0413.JPG" deleted by Jack Kelly/R3/USEPA/US] [attachment "IMG_0413.JPG" deleted by Jack Kelly/R3/USEPA/US] [attachment "Powhatan Exterior Photo.jpg" deleted by Jack Kelly/R3/USEPA/US]

Jack Kelly, On Scene Coordinator
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Jack Kelly
On Scene Coordinator
EPA Region III, Philadelphia
215-514-6792 (cell)

215-814-3112 (office)

From: Cron, Mitch

Sent: Monday, August 28, 2017 10:39 AM

To: Eiseman, Robin <Eiseman.Robin@epa.gov>; Kelly, Jack (R3 Phila.) <Kelly.Jack@epa.gov>

Cc: Wallace, Robert <wallace.robert@epa.gov>; Matzko, Kristine <Matzko.Kristine@epa.gov>

Subject: RE: Question from our Powhatton days

Robin: thanks for following up on this; when we're ready to speak with PRPs please let me know. We'll then need to speak with City of Hagerstown. Please let me know when we're ready; I was mostly going to rely upon the sentence from NCP section 300.400(e). talk to you soon -thanks a lot for your help with this, Mitch

From: Eiseman, Robin

Sent: Thursday, August 24, 2017 2:07 PM

To: Kelly, Jack (R3 Phila.) <Kelly.Jack@epa.gov>

Cc: Cron, Mitch <Cron.Mitch@epa.gov>; Wallace, Robert <wallace.robert@epa.gov>

Subject: Question from our Powhatton days

Hi, Jack! I have a question for you about what we dealt with at Powhatton. I seem to recall we had an issue w/ the zoning board there and weren't able to be exempted from the process. Here, the PRPs are having an issue w/ building and demolition permits.

Do you recall how we dealt with this? Did we need to get building/demolition permits at Powhatton? Why did we have to go thru zoning? Do you recall why it wasn't exempted?

If s you have any light to shed on the situation and how to deal w/ it, we'd really appreciate it.

Thanks,

Robin

Robin E. Eiseman
Senior Assistant Regional Counsel
U.S. EPA Region III (3RC41)
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From: Cron, Mitch

Sent: Wednesday, August 23, 2017 10:32 AM

To: Eiseman, Robin <Eiseman.Robin@epa.gov>

Subject: FW: Central Chemical: CERCLA Exemption City of Hagerstown Permitting

Hi Robin – would you be willing to make this call? Let me know and thanks,
Mitch

From: Don Gunster [<mailto:dgunster@newfields.com>]

Sent: Wednesday, August 23, 2017 10:23 AM

To: Cron, Mitch <Cron.Mitch@epa.gov>

Cc: Patrick Gobb <pgobb@newfields.com>; Tanya Ambrose <tambrose@newfields.com>

Subject: Central Chemical: CERCLA Exemption City of Hagerstown Permitting

Mitch,

We would like to solicit your assistance with helping the City of Hagerstown understand the CERCLA exemptions. Mark Bauer with Geosyntec meet with Hagerstown Planning Zoning Department. The City is not convinced regarding the CERCLA exemption for the Site. City understands federal exemptions only as new construction/development and environmental remediation is not included. Kathleen Maher – Director of Planning and Stephen Bockmiller (contact information provided below) have requested that EPA call the City and discusses these exemptions. The City will only approve an exemption if EPA provides the basis. Currently this effects the demolition permits and building permits. Both permits have a fee associated with them based on the cost of the project. Geosyntec would also need to provide the City with a Site Plan. According to Stephen Bockmiller the **approval of Site plans is not fast and generally takes at least 2 months..** The City seems motivated to get this project up and running and if the Site is exempt from permitting under CERCLA, all they request is a copy of our plans and drawings.

Would it be possible for you or your staff to contact the City of Hagerstown and discuss CERCLA exemptions? If necessary, we can discuss this further on our call tomorrow.

Contact information is the following:

Stephen Bockmiller (Development Planner/Zoning Administrator) – 301-739-8577 ext 139

Kathleen Maher (Director of Planning and Code Administration) – 301-739-8577 ext 140

I appreciate your assistance with this issue.

Thank you,

Don

Donald G. Gunster, M.E.M.
Partner/Senior Scientist



Sediment Management and Marine Sciences Group
300 Ledgewood Place
Suite 305
Rockland, MA 02370



(781) 347-1135 – direct line



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DGunster@Newfields.com

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